

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

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Home Department (General)

Notification

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Government of Goa, Daman and Diu Police Subordinate Service (Discipline and Appeal) Rules, 1975

In exercise of the powers conferred by sub-section (2) of section 46 of the Police Act, 1861 (Central Act of 1861) read with section 2 and section 7 of the said Act, the Lieutenant Governor, Goa, Daman and Diu hereby makes the following rules, namely:—

1. **Short title and commencement.** — (1) These rules may be called the Goa, Daman and Diu Police Subordinate Service (Discipline and Appeal) Rules, 1975.

(2) It shall come into force at once.

2. **Interpretation.** — In these rules, unless the context otherwise requires — (a) 'Appointing authority' in relation to any member of the service means the authority empowered to make appointments to the service of which the Government servant is for the time being a member;

(b) 'Schedule' means the schedule annexed to these Rules;

(c) 'Service' means the Goa, Daman and Diu Police Subordinate Service comprising the Police officers and the personnel of the rank of Inspectors and below and of the members of the Goa Reserve Police, of the rank of Inspectors and below including drivers and wireless operators.

3. **Penalties.** — (1) The following minor and major penalties may, for good and sufficient reasons and as hereinafter provided, be imposed upon the members of the service, namely:—

Minor Penalties

- Extra drill, guard duty and fatigue duties;
- Confident to the quarters; with or without extra drill;
- Reprimand either oral or written;
- Censure;

(e) Withholding of increment or promotion or both;

(f) Imposition of fine of any amount not exceeding one month's pay;

(g) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of lawful orders;

Major Penalties

(h) Reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the member of the service to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the member of the service was reduced and his seniority and pay on such restoration to that grade, post or service;

(i) Suspension for a period not exceeding 15 days in the case of members of service if the penalty of reduction to a lower grade post of time-scale or to a lower stage in the same time-scale cannot be imposed;

(j) Compulsory retirement;

(k) Removal from service which shall not be a disqualification for future employment under the Government;

(l) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Explanation 1. — The penalties which are specified in this rule are set out in the order of their severity, each one of them being more severe than the one preceding it.

Explanation 2. — The following shall not amount to a penalty within the meaning of this rule, namely:—

(i) withholding of increments of pay of a member of service for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;

(ii) stoppage of a member of the service at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;

(iii) non-promotion of a member of the service, whether in a substantive or officiating capacity,

after consideration of his case, to a service, grade or post for promotion to which he is eligible;

(iv) reversion of a member of the service officiating in a higher service, grade, or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post or on any administrative ground unconnected with his conduct;

(v) reversion of a member of the service appointed on probation to any other service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;

(vi) replacement of the services of a member of the service whose services had been borrowed from a State Government or an authority under the control of a State Government at the disposal of the State Government or the authority from which the services of such a member of the service had been borrowed;

(vii) compulsory retirement of a member of the service in accordance with the provisions relating to his superannuation or retirement;

(viii) termination of the services —

(a) of a member of the service appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation; or

(b) of a temporary member of the service in accordance with the provisions of sub-rule (1) of rule 5 of the Central Civil Services (Temporary Service) Rules, 1965; or

(c) of a member of the service, employed under an agreement in accordance with the terms of such agreement.

(2)(a) The penalty of reprimand mentioned at clause (c) of sub-rule (1) may be given when the offence is such as not to merit the penalty of censure.

(b) The penalty of censure mentioned at clause (d) of sub-rule (1) may be given when the offence is such as to affect the character of the officer or his suitability for the service.

(c) **Deferred punishment:** Any minor penalty falling within clauses (c), (d) or (e) of sub-rule (1) can be held in abeyance when an officer has a previous good record. Such penalty may be held in abeyance by the authority competent to impose the penalty or by the authority to which the first mentioned authority is subordinate for any period ranging from three to six months at the end of which the order of punishment may be cancelled if the delinquent's conduct is found to be good while on duty during the period when the penalty is held in abeyance or such penalty may at once be confirmed. The penalty so confirmed will take effect from the date on which such penalty is originally awarded.

(d) The penalty of recovery from the pay of the member of the service concerned of whole or part of the pecuniary loss caused to the Government by negligence or breach of lawful orders may be imposed in addition to any other penalty which may be imposed in respect of such negligence or breach of orders.

4. Disciplinary Authorities. — (1) The Administrator may impose any of the penalties specified in rule 3 on any member of the service.

(2) Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (3), any of the penalties specified in rule 3 may be imposed on any member of the service by the appointing authority or the authority specified in the schedule in this behalf.

(3) Notwithstanding anything contained in this rule, —

(a) extra drill, guard duty and fatigue duties may be awarded to a police constable for a period not exceeding ten days by an Assistant Superintendent of Police or a Deputy Superintendent of Police and for a period not exceeding fifteen days by the Superintendent of Police and for a period not exceeding twenty days by the Inspector General of Police.

(b) A police constable and a Head Constable may be confined to quarters for a period not exceeding fifteen days by the Inspector General of Police and for a period not exceeding ten days by the Superintendent of Police with or without the penalty of extra drill, guard duty or fatigue duty.

5. Procedure for imposing minor penalties. — (1) Subject to the provisions of sub-rule (3) of rule 7, no order imposing on a member of the service any of the penalties specified in clauses (d) to (g) of sub-rule (1) of rule 3 shall be made except after —

(a) informing the member of the service in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity or making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (21) of rule 6, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the member of the service under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour.

(2) The record of the proceedings in such cases shall include —

(i) a copy of the intimation to the Government servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the findings on each imputation of misconduct or misbehaviour; and

(vi) the orders on the case together with the reasons therefor.

6. Procedure for imposing major penalties. — (1) No order imposing any of the penalties specified in clauses (h) to (l) of sub-rule (1) of rule 3 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a member of the service, it may itself inquire, or appoint under this rule an inquiring authority to inquire into the truth thereof.

(3) In every case where it is proposed to impose on a member of the services any of the major penalties mentioned in clauses (h) to (l) of sub-rule (1) of rule 3, the grounds on which it is proposed to take action, shall except where such action is proposed to be taken on facts which have led to his conviction in a criminal court be reduced to the form of a definite charge which shall be communicated to a person charged together with a statement of the allegation on which each charge is based and of any other circumstances in which it is proposed to take into consideration in passing orders on the case. He shall be required to put in a written statement of his defence within ten days or within such further time as the disciplinary authority permits and to state whether he desires to be heard in person.

(4) (a) On receipt of the written statement of defence the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint, under sub-rule (2), an inquiring authority for the purpose and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 7.

(b) If no written statement of defence is submitted by the Government servant, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoint an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a member of the service to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

(5) The disciplinary authority shall, where it is not the inquiring authority forward to the inquiring authority —

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any, submitted by the Government servant;

(iii) a copy of the statements of witnesses, if any, referred to in sub-rule (3);

(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Government servant; and

(v) a copy of the order, if any, appointing the «Presenting Officer».

(6) The members of the service shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the article of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by a

notice in writing, specify in this behalf, or within such further time, not exceeding ten days, as the inquiring authority may allow.

(7) The member of the service may take the assistance of any other member of the service to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits.

(8) If the member of the service who has not admitted any of the articles of charge in this written statement of defence or has not submitted any written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain his signature thereon.

(9) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the member of the service pleads guilty.

(10) The inquiring authority shall, if the member of the service fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding fifteen days, after recording an order that the member of the service may, for the purpose of preparing his defence —

(i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3);

(ii) submit a list of witnesses to be examined on his behalf:

Note. — If the member of the service applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow, for the discovery or production of any documents which are in the possession of Government but not mentioned in the list referred to in sub-rule (3).

Note. — The member of the service shall indicate the relevance of the document required by him to be discovered or produced by the Government.

(11) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition:

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to

requisition such of the documents as are, in its opinion, not relevant to the case.

(12) On receipt of the requisition referred to in sub-rule (13), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the member of the service and withdraw the requisition made by him for the production or discovery of such documents.

(13) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the member of the service. The Presenting Officer, if any, shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(14) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer if any to produce evidence not included in the list given to the member of the service or may itself call for new evidence or recall and re-examine any witness and in such case the member of the service shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the member of the service an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the member of the service to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice.

NOTE.—New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

(15) When the case for the disciplinary authority is closed the member of the service shall be required to state the defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the member of the service shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

(16) The evidence on behalf of the member of the service shall then be produced. The member of the service may examine himself in his own behalf, if

he so prefers. The witnesses produced by the member of the service shall then be examined by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(17) The inquiring authority may, after the member of the service closes his case, and shall, if the member of the service has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the member of the service to explain any circumstances appearing in the evidence against him.

(18) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the member of the service or permit them to file written briefs of their respective case, if they so desire.

(19) If the member of the service to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex-parte.

(20) Whenever any inquiring authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself:

Provided that if the succeeding inquiry authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided.

(21) (i) After the conclusion of the inquiry a report shall be prepared and it shall contain —

(a) the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(b) the defence of the member of the service in respect of each article of charge;

(c) an assessment of the evidence in respect of each article of charge;

(d) the findings of each article of charge and the reasons therefor.

Explanation.—If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such articles of charge;

Provided that the findings on such article of charge shall not be recorded unless the member of the service has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) The inquiring authority, where it is not itself the disciplinary authority shall forward to the dis-

disciplinary authority the records of inquiry which shall include —

- (a) the report prepared by it under clause (i);
- (b) the written statement of defence, if any, submitted by the member of the service;
- (c) the oral and documentary evidence produced in the course of the inquiry;
- (d) written briefs, if any, filed by the presenting Officer, if any, or the member of the service or both during the course of the inquiry; and
- (e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

7. Action on the inquiry report. — (1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of rule 6 as far as may be.

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (c) to (g) of sub-rule (1) of rule 3 should be imposed on the member of the service it shall, notwithstanding anything contained in rule 5, make an order imposing such penalty.

(4) (i) If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (h) to (l) of sub-rule (1) of rule 3 should be imposed on the member of the service, it shall —

(a) furnish to the member of the service copy of the report of the inquiry held by it and its findings on each article of charge, or, where the inquiry has been held by an inquiring authority, appointed by it, a copy of the report of such authority and a statement of its findings on each article of charge together with brief reasons for its disagreement, if any, with the findings of the inquiring authority;

(b) give the member of the service a notice stating the penalty proposed to be imposed on him and calling upon him to submit within fifteen days of receipt of the notice or such further time not exceeding fifteen days, as may be allowed, such representation as he may wish to make on the proposed penalty on the basis of the evidence adduced during the inquiry held under rule 6.

(ii) The disciplinary authority shall consider the representation, if any, made by the member of the service in pursuance of the notice given to him under clause (4) (i) of Rule 7 and determine what penalty, if any, should be imposed on him and make such order as it may deem fit.

8. Communication of orders. — Orders made by the disciplinary authority shall be communicated to

the member of the service who shall also be supplied with a copy of the report of the inquiry, if any, held by the disciplinary authority and a copy of its findings on each article of charge, or, where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority and a statement of the findings of the disciplinary authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority (unless they have already been supplied to him) and a brief statement of the reasons for such non-acceptance.

9. Common Proceedings. — (1) Where two or more members of service are concerned in any case, the Inspector General of Police may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

(2) Any such order shall specify —

(i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;

(ii) the penalties specified in rule 3 which such disciplinary authority shall be competent to impose.

(iii) whether the procedure laid down in rule 5 and rule 6 or rule 7 shall be followed in the proceeding.

10. Special procedure in certain cases. — Notwithstanding anything contained in rule 5 to rule 9.

(i) where any penalty is imposed on a member of the service on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or

(iii) where the disciplinary authority is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit.

11. Provisions regarding officers borrowed from State Government etc. — (1) Where an order of suspension is made or a disciplinary proceeding is conducted against a member of the service whose services have been borrowed by one department from another department or from a State Government, the authority lending his services (hereinafter in this rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of the suspension of the member of the service or of the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the member of the service if the disciplinary authority is of the opinion that any of the penalties specified in clauses (d) to (g) of sub-rule (1) of rule 3 should be imposed on him, it may, subject to the provisions of sub-rule (3) of rule 7 and after consultation with the lending authority, pass such orders on the case as it may deem necessary:

(i) provided that in the event of a difference of opinion between the borrowing authority and

the lending authority the services of the member of the service shall be replaced at the disposal of the lending authority.

(ii) if the disciplinary authority is of the opinion that any of the penalties specified in clauses (h) to (l) of sub-rule (1) of rule 3 should be imposed on the Government servant, it shall replace the services of such member of the service at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it may deem necessary.

12. Suspension. — (1) Notwithstanding anything contained in clause (i) of sub-rule (1) of rule 3, the appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Administrator by general or special order, may place a member of the service under suspension —

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) against whom an investigation, inquiry or trial relating to a criminal charge is pending and the charge is connected with his position as a member of the service or is likely to embarrass him in the discharge of his duties or involves moral turpitude.

(2) A member of the service shall be deemed to have been placed under suspension by an order of appointing authority —

(a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation. — The period of forty eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the service under suspension is set aside appeal under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further order.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the service is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the member of the service shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal,

removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a member of the service is suspended or is deemed to have been suspended, (Whether in connection with any disciplinary proceeding or otherwise), any other disciplinary proceeding is commenced against him during the continuance of that suspension the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the member of the service shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

13. Orders against which no appeal lies. — Notwithstanding anything contained in this Part, no appeal shall lie against —

(i) any order made by the Administrator;

(ii) any order of an interlocutory nature of a step-in-aid or the final disposal of a disciplinary proceeding, other than an order of suspension;

(iii) any order passed by an inquiring authority in the course of an inquiry under rule 6.

14. Orders against which appeal lies. — Subject to the provisions of rule 13, a member of the service may prefer an appeal against all or any of the following orders, namely:—

(i) an order of suspension made or deemed to have been made under rule 12;

(ii) an order imposing any of the penalties specified in rule 3 except those mentioned at clauses (a) to (c) of that Rule, whether made by the disciplinary authority or by any appellate or reviewing authority;

(iii) an order enhancing any penalty, imposed under rule 3;

(iv) an order which —

(a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or

(b) interprets to his disadvantage the provisions of any such rule or agreement;

(v) an order —

(a) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;

(b) reverting him while officiating in a higher service, grade or post to a lower service, grade or post, otherwise than as a penalty;

(c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;

(d) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he

is deemed to be under suspension or for any portion thereof;

(e) determining his pay and allowances —

(i) for the period of suspension, or

(ii) for the period from the date of his dismissal, removal, or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in a time-scale or pay, to the date of his reinstatement or restoration of his service, grade or post, or

(f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.

Explanation. — In this rule —

(i) the expression 'member of the service' includes a person who has ceased to be in service;

(ii) the expression 'pension' includes additional pension, gratuity and any other retirement benefit.

15. Appellate Authorities. — (1) A member of the service including a person who has ceased to be in service, may prefer an appeal against all or any of the orders specified in rule 14 to the authority specified in this behalf in the Schedule.

(2) Notwithstanding anything contained in sub-rule (1)

(i) an appeal against an order in a common proceeding held under rule 9 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate;

(ii) where the person who made the order appealed, against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.

16. Period of limitation for appeals. — No appeal preferred under rule 14 shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

17. Form and contents of appeal. — (1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) The authority which made the order appealed against shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay, and without waiting for any direction from the appellate authority.

18. Consideration of appeal. — (1) In the case of an appeal against an order of suspension under rule 12 the appellate authority shall consider whether in the light of the provisions of rule 12 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in rule 3 or enhancing any penalty imposed under the said rule, the appellate authority shall consider —

(a) where the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the findings of the disciplinary authority warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders —

(i) confirming, enhancing, reducing, or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit to the circumstances of the case:

provided that —

(i) if the enhanced penalty, which the appellate authority proposes to impose is one of the penalties specified in clause (h) to (l) of sub-rule (1) of rule 3 and an inquiry under rule 6 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 10, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 6 and thereafter, on a consideration of the proceedings of such inquiry and after giving the appellant a reasonable opportunity, as far as may be in accordance with the provisions of sub-rule (4) of rule 7, of making a representation against the penalty proposed on the basis of the evidence adduced during such inquiry, make such orders as it may deem fit;

(ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (h) to (l) of sub-rule (1) of rule 3 and an inquiry under rule 6 has already been held in the case, the appellate authority shall after giving the appellant a reasonable opportunity, as far as may be in accordance with the provisions of sub-rule (4) of rule 7, of making a representation against the penalty proposed on the basis of the evidence adduced during the inquiry, make such orders as it may deem fit, and

(iii) no order imposing an enhanced penalty shall be made in any other case unless the appel-

lant has been given a reasonable opportunity as far as may be in accordance with the provisions of rule 5, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in rule 14, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

19. **Implementation of orders in appeal.** — The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

20. **Service of orders, notices etc.** — Every order, notice and other process made or issued under these rules shall be served in person on the member of the service concerned or communicated to him by registered post.

21. **Power to relax time-limit and to condone delay.** — Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

22. **Desertion.** — (1) Absence without leave of any member of the service for 21 days shall be considered to complete the offence of desertion, after which his name shall invariably be struck off from the duty roll.

(2) An application for reinstatement from a member of the service whose name has been struck off as a deserter shall not be entertained unless it reaches

the Inspector General of Police within two months of the date of the commencement of the absence without leave. The Inspector General of Police shall not reinstate a deserter —

(i) until the deserter has attended in person; and

(ii) the deserter has given his explanation for the absence without leave; and

(iii) he is satisfied, after such inquiry as may be necessary, that the case deserves reconsideration.

(3) If no application is received within two months and if the whereabouts of the deserter are not known, the Inspector General of Police shall record in writing the reasons for his being satisfied that it is not reasonably practicable to give the deserter an opportunity of showing cause against his dismissal and then confirm the dismissal. In other cases a charge shall be framed and the procedure prescribed in Rule 6 shall be complied before confirming the dismissal or reinstating the deserter with or without punishment.

23. **Removal of doubts.** — If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Administrator or such other authority as may be specified by the Administrator by a general or special order, and the Administrator of such other authority shall decide the same.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

G. M. Sardesai, Under Secretary (Home).

Panaji, 5th July, 1975.

SCHEDULE

Sr. No.	Description of post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule)		Appellate Authority
			Authority	Penalties	
1	2	3	4	5	6
1.	Police Inspector (including Motor Transport and Wireless).	Inspector General of Police.	i) Inspector General of Police. ii) Superintendent of Police.	Major Minor	Chief Secretary. Inspector General of Police.
2.	Sub-Inspector of Police (including Wireless).	Inspector General of Police.	i) Inspector General of Police. ii) Superintendent of Police.	Major Minor	Chief Secretary. Inspector General of Police.
3.	Wireless Operator/Radio Mechanic and other class III posts of the Wireless Section.	Superintendent of Police.	Superintendent of Police.	All	Inspector General of Police.
4.	Assistant Sub-Inspector.	— do —	Superintendent of Police.	All	Inspector General of Police.
5.	Head Constables and Drivers.	— do —	Superintendent of Police.	All	Inspector General of Police.
6.	Police Constables and other Class IV members of service.	— do —	Superintendent of Police.	All	Inspector General of Police.

Law and Judiciary Department

Notification

LD/2033/75

The following notifications received from the Government of India, Ministry of Law, Justice and Company Affairs, New Delhi, are hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 10th June, 1975.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 16th May 1975

Notification

S.O. 206(E). — The following Order made by the President is published for general information. —

C.O. 99

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER NO. XI

In exercise of the powers conferred by clause (o) of article 371F of the Constitution of India and of all other powers enabling him in this behalf, the President is pleased to make the following Order, namely:—

1.(1) This Order may be called the Constitution (Removal of Difficulties) Order No. XI.

(2) It shall come into force at once.

2. The Governor of Sikkim shall, before entering upon his office, make and subscribe the oath or affirmation prescribed in article 159 of the Constitution in the presence of the Judge appointed to perform the duties of the office of the Chief Justice of the High Court for that State, notwithstanding that such Judge has not made and subscribed the oath or affirmation under article 219 of the Constitution.

3. The allowances and privileges of the Governor of Sikkim shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158 of the Constitution, be such as the President may, by order, determine.

4. The Governor of Sikkim may authorise by one or more orders such expenditure from the Consolidated Fund of the State of Sikkim as he deems necessary for a period of not more than six months beginning with the 26th day of April, 1975, pending the sanction of such expenditure by the Legislative Assembly of the State of Sikkim.

5. The salaries and allowances of Ministers for the State of Sikkim shall, until they are determined by the Legislature of the State by law under clause (5) of article 164 of the Constitution, be such as the Governor of Sikkim may, by order, determine.

6. The salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly of the State of Sikkim shall, until provision in that behalf is made by the Legislature of the State of Sikkim by law under article 186 of the Constitution, be such as the Governor of Sikkim may, by order, fix.

7. The salaries and allowances of the members of the Legislative Assembly of the State of Sikkim shall, until provision in that respect is made by the Legislature of the State of Sikkim by law under article 195 of the Constitution, be such as the Governor of Sikkim may, by order, determine.

8. Until the Legislature of the State of Sikkim shall continue to be used for those official purposes otherwise provided by law, the English language within the State for which it was being used immediately before the 26th day of April, 1975.

9. Article 210 of the Constitution shall have effect as if the following further proviso were added to clause (2) thereof, namely:—

‘Provided further that in relation to the Legislature of the State of Sikkim this clause shall have effect as if for the words “fifteen years from the commencement of this Constitution” occurring therein, the words “fifteen years from the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975” were substituted.’

10. Until rules are made under clause (1) of article 208 of the Constitution by the Legislature of the State of Sikkim, the rules as to procedure and conduct of business in force immediately before the 26th day of April, 1975, with respect to the Sikkim Assembly shall have effect in relation to the Legislature of the State of Sikkim subject to such modifications and adaptations as may be made therein by the Governor of Sikkim.

11. Notwithstanding that no provision or insufficient provision has been made under clause (1) of article 371F of the Constitution for the adaptation of a law in force immediately before the 26th day of April, 1975, in the territories comprised in the State of Sikkim, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Sikkim, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

[No. F. 13(4)/75-L.I.]

New Delhi, the 16th May, 1975

Notification

S.O. 207(E).—The following Order made by the President is published for general information:—

THE ADAPTATION OF SIKKIM LAWS
(No. 1) ORDER, 1975

In exercise of the powers conferred by clause (1) of article 371F of the Constitution, the President hereby makes the following Order, namely:—

1. (1) This Order may be called the Adaptation of Sikkim Laws (No. 1) Order, 1975.

(2) It shall be deemed to have come into force on the 26th day of April, 1975.

2. (1) In this Order —

(a) "appointed day" means the 26th day of April, 1975;

(b) "existing law" means any law in force immediately before the appointed day in the whole or any part of the territories comprised in the State of Sikkim;

(c) "law" includes any enactment, Proclamation, Regulation, rule, notification or other instrument having, immediately before the appointed day, the force of law in the whole or any part of the territory now comprised in the State of Sikkim.

(2) The General Clauses Act, 1897 applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

3. Whenever an expression mentioned in column 1 of the Table hereunder occurs (otherwise than in a title or preamble or in a citation or description of an enactment) in an existing law then, in the application of that law in relation to the administration of the State of Sikkim, or, as the case may be, to any part thereof, unless the context otherwise requires, there shall be substituted therefor the expression set opposite to it in column 2 of the said Table, and there shall also be made in any sentence in which that expression occurs such consequential amendments as the rules of grammar may require.

TABLE

1	2
His Highness the Maharaja of Sikkim	State Government
His Highness the Maharaja Sahib	
The Maharaja in Council	
Sikkim Darbar	
Darbar	
Sikkim Government	

4. As from the appointed day, the laws mentioned in the First Schedule to this Order shall stand repealed.

5. The laws mentioned in the Second Schedule to this Order shall, until altered, repealed or amended

by a competent Legislature or other competent authority, have effect subject to the adaptations and modifications directed by that Schedule.

THE FIRST SCHEDULE

1. Office Order No. 45/P.S. dated the 22nd September, 1960 declaring the High Court of Judicature, Sikkim, as a vacation Department.

2. The Sikkim Subjects Regulation, 1961.

THE SECOND SCHEDULE

1. The High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955:—

Omit sections 2, 3 and 5 and sections 9 to 13.

Section 6. — For sub-section (a), substitute —

«(a) Subject to the provisions of the Constitution of India, the High Court shall be the final authority in all judicial matters, Civil or Criminal;».

Sections 7 and 8. — Omit «with the approval of the Maharaja».

Section 7. — Omit «with similar approval».

2. Home and Police Department Notification No. 4081/HP regarding the control of undesirables within Sikkim —

Paragraph 3, —

(i) for the words «Superintendent of Police» in the two places they occur, substitute «Deputy Commissioner of Police»;

(ii) for «Dewan», substitute «District Magistrate».

For paragraph 4, substitute —

«The District Magistrate, on receipt of the report from the Deputy Commissioner of Police may, after giving the person concerned, a notice to show cause as to why his movements should not be restricted within the area or areas specified in the notice or why he should not be expelled from the State of Sikkim, direct him either to remove himself to the area specified in the order or from the State itself. The order shall specify the route by which the person concerned shall remove himself into the area or out of the State as also the period within which the removal should be executed:

Provided that the person aggrieved by the order shall have a right of appeal to the State Government within such time as may be specified in the order and the Government may either rescind the order or confirm it.».

3. Rules regarding registration of documents:

In paragraph 1 omit «The registration work at the Head Office shall be under the direct control of His Highness the Maharaja of Sikkim».

4. The Sikkim Government Service Conduct Rules, 1957:

Rule 10, omit the words «the Ruling family or the Darbar or» in the two places they occur.

5. Rules for the payment of Darbar witnesses in courts:

In rules I and VI, omit «Darbar».

FAKHRUDDIN ALI AHMED,
President

K. K. SUNDARAM,
Secretary to the Government of India.

[19(1)/75-II.]

Notification

LD/2412/75

The following notification received from the Government of India, Ministry of Law, Justice and Company Affairs New Delhi, is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 8th July, 1975.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

Notification

New Delhi, the 29th June, 1975

G. S. R. 365(E).—The following Order made by the President is published for general information:—

C. O. 100

The Constitution (Application to Jammu and Kashmir)

Amendment Order, 1975

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1.(1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1975.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in clause (a) of sub-paragraph (13) (relating to Part XVIII), in clause (4) of article 352, for the words "unless it is made at the request or with the concurrence of the Government of that State", the following shall be substituted, namely:—

"unless—

- (a) it is made at the request or with the concurrence of the Government of that State, or
- (b) where it has not been so made, it is applied subsequently by the President to that State at the request or with the concurrence of the Government of that State".

F. A. AHMED,
President.

K. K. SUNDARAM, Secy.

[No. F. 19(4)/75-L.I.]

Notification

LD/2392/75

The following notification received from the Government of India, Ministry of Home Affairs New Delhi, is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 9th July, 1975.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

Notification

Order

New Delhi, the 20th June 1975

G. S. R. 338 (E).—In exercise of the powers conferred by clause (1) of article 359 of the Constitution, the President hereby makes the following amendment in Order No. G. S. R. 694(E), dated the 23rd December, 1974, namely:—

In the said Order, for the words "six months", the words "twelve months" shall be substituted.

[No. II/16011/14/74-S&P(D.II)]

C. V. NARASIMHAN, Jt. Secy.

Notification

LD/2407/75

The following notification received from the Government of India, Ministry of Agriculture & Irrigation New Delhi, is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 11th July, 1975.

GOVERNMENT OF INDIA

MINISTRY OF AGRICULTURE & IRRIGATION

(Department of Agriculture)

New Delhi, dated the 26th March, 1975

Notification

G. S. R.—In exercise of the power conferred by section 25 of the Seeds Act, 1966 (54 of 1966), the Central Government hereby makes the following rules further to amend to Seeds Rules, 1968, namely:—

1. These rules may be called the Seeds (Amendment) Rules, 1974.

2. After rule 23 of the said rules, the following rule shall be inserted namely:—

"23-A. Action to be taken by the Seed Inspector if a complaint is lodged with him:—

(1) If farmer has lodged a complaint in writing that the failure of the crop is due to the defective quality of seeds of any notified kind or variety supplied to him, the Seed Inspector shall take in his possession the marks or labels, the seed containers and a sample of unused seeds to the extent possible from the complainant for establishing the source of supply of seeds and shall investigate the causes of the failure of his crop by sending samples of the lot to the Seed Analyst for detailed analysis at the State Seed Testing

Laboratory. He shall thereupon submit the report of his findings as soon as possible to the competent authority.

(2) In case, the Seed Inspector comes to the conclusion that the failure of the crop is due to the quality of seeds supplied to the farmer being less than the minimum standards notified by the Central Government, launch proceedings against the supplier for contravention of the provisions of the Act or these Rules".

No. 7-15/74-SD

Sd/-

ANNA R. GEORGE

Joint Secretary to the Govt. of India.